

MINUTES OF THE
ARIZONA BOARD OF TECHNICAL REGISTRATION

January 23, 2007

9:30 AM

OPEN SESSION

1. CALL TO ORDER - The meeting of the Board of Technical Registration was called to order at 9:40 a.m. by Chairman Stuart Lane.
2. ROLL CALL - Board Members in Attendance: Stuart Lane, Ronald Starling, Chet Pearson, Dawn Garcia, Joy Lyndes and Sheila Bowen. Absent: Richard Pawelko, Robert Roos and Gary Nelson. Board Staff: Ronald Dalrymple, Lavern Douglas, Kathryn Fuller, Julie Ruff, Lisa Lawhorn and Manuel Maltos. Assistant Attorney General: Terrie Sanders.
3. CALL TO THE PUBLIC – No members of the public spoke.
4. ADOPTION OF MINUTES – Ms. Garcia moved to approve the November 21, 2006 minutes, with the last line of agenda item 13(4) amended to read, "More information will be forthcoming after legal and *assessment* issues are addressed." Mr. Starling seconded. Motion Carried.
5. ENFORCEMENT MATTERS
 - A. Proposed Dismissals
 1. M05-369, David M. Kazin, P.E. (Electrical) # 18626 – Ms. Garcia moved to accept the staff recommendation to issue a Letter of Concern. Mr. Starling seconded. After discussion, Motion Carried.
 2. M06-099, Ronald J. McNutt, P.E. (Electrical) #28802 – Ms. Garcia moved to issue a Letter of Concern, specifying that the Board action is de minimus. Mr. Starling seconded. After discussion, Motion Carried.
 - B. Proposed Consent Agreements
 1. M05-141, Mark Farrar, Nonregistrant – Ms. Lyndes moved to accept the Respondent's signed consent Agreement encompassing the following Order: Assurance of Discontinuance: Respondent will discontinue practicing, advertising and offering architectural, engineering and land surveying services until Respondent is granted registration by the Board; Civil Penalty: Pay a civil penalty in the amount of \$2,000.00; Cost of Investigation: Pay cost of investigation in the amount of \$155.00. Ms. Bowen seconded. After discussion, Motion Carried.

2. M06-202, Justin T. Supanich, Nonregistrant– Mr. Starling moved to accept the Respondent's signed consent agreement encompassing the following Order: Respondent will discontinue the practice of land surveying until such time as Respondent is registered by the Board; Cost of Investigation: Pay cost of investigation in the amount of \$80.00. Ms. Lyndes seconded. After discussion, Motion Carried.
3. M05-219 – Frank E. Henderson, III, P.E. (Civil) #28940 - Ms. Garcia moved to accept the Respondent's signed Consent Agreement encompassing the following Order: Administrative Penalty: Pay an administrative penalty in the amount of \$1,000.00; Cost of Investigation: Pay cost of investigation in the amount of \$90.00. Mr. Lane seconded. After discussion, Motion Deadlocked. (Mr. Starling, Mr. Pearson, and Ms. Bowen voted Nay. Ms. Garcia, Ms. Lyndes and Mr. Lane voted Aye.)

After further discussion, Mr. Starling moved to issue a Letter of Concern, specifying that the Board action resulted from an unintentional de minimus violation of the Board's Rules. Ms. Bowen seconded. Motion Carried.

4. M05-267, James J. O'Connor, R.L.S. #30361 - Mr. Lane moved to accept the Respondent's signed consent agreement encompassing the following Order: Letter of Reprimand: Probation: Amend Survey – Respondent shall amend survey and submit it to the Board for review and approval before recording with the Pinal County Recorder's Office; Cost of Investigation: Pay the cost of investigation in the amount of \$215.00. Mr. Pearson seconded. After discussion, Motion Carried.
5. M06-319/MIR04-190, Stan G. Faris, R.L.S. #35235 – Mr. Lane moved to accept the Respondent's signed consent agreement encompassing the following Order: Letter of Reprimand: Probation: Amend Survey – Respondent shall amend survey and submit it to the Board for review and approval before recording with the Pinal county Recorder's Office; Cost of Investigation: Pay the cost of investigation in the amount of \$175.00. Ms. Garcia seconded. After discussion, Motion Carried.
6. M05-129, T. Wayne Ashby, R.L.S. #19316 - Mr. Lane moved to accept the staff recommendation to obtain a signed consent agreement encompassing the following Order: Letter of Reprimand and Cost of Investigation. If staff is unable to obtain a signed consent agreement, proceed to a formal administrative hearing. Mr. Starling seconded. After discussion, Motion Carried.
7. M05-304, Michael P. Wier, R.L.S. #07247 – Mr. Lane moved to accept the staff recommendation to obtain a signed consent agreement encompassing the following Order: Letter of Reprimand and Cost of Investigation. If staff is unable to obtain a signed consent agreement, proceed to a formal administrative hearing. Mr. Pearson seconded. Mr. Wier addressed the Board, suggesting that the Board consider issuing a policy statement with regard to the time frame in which surveyors should record completed surveys. After discussion, Motion Carried.

- C. Discussion and consideration: (Deem Allegations Admitted and Issue Board Order)
 - 1. M06-210, Earl F. McKinney, P.E. (Mechanical) #12765 & P.E. (Electrical) #29966 – Mr. Lane moved to revoke Respondent's P.E. (Mechanical) Registration No. 12765 and P.E. (Electrical) Registration No. 29966. Mr. Starling seconded. After discussion, Motion Carried.

6. Review, Consideration & Possible Vote on the following:

EVALUATION OF APPLICATIONS FOR EXAMINATION AND/OR POSSIBLE GRANTING OF REGISTRATION OR CERTIFICATION

A. Applicant for Certified Home Inspector

- 1. Val Holindrake #061360 – Mr. Starling moved to:
 - a. Accept the Respondent's signed consent agreement encompassing the following Order: Professional Education: Within ninety (90) days of the effective date of the Consent Agreement, Respondent shall take and successfully complete no less than three (3) hours of professional courses in the area of ethics, which shall be pre-approved by the Board. Respondent shall provide the Board with verification of satisfactory completion of course work. All associated costs are the sole responsibility of the Respondent; Open Book Test: Within thirty (30) days from the effective date of this Consent Agreement, Respondent shall take and successfully complete an open book test on the Board's Statutes and Rules. This test may be taken as many times as requested by Respondent, within the thirty (30) days, until a score of 100% is achieved.
 - b. Grant certification upon payment of applicable fees within thirty (30) days, which if not paid will result in denial of certification; and, that staff report to the Board at ninety (90) days regarding the progress of the Respondent's compliance with the Consent Agreement. The Board may impose disciplinary sanctions in accordance with A.R.S. § 32-150 if Respondent fails to comply with any requirement of the Consent Agreement.

Ms. Garcia seconded. After discussion, Motion Carried.

B. Applicants for Professional Registration

- 1. Robert Shemwell, Architect #062000 – Mr. Starling moved to grant registration upon payment of all applicable fees. Mr. Pearson seconded. After discussion, Motion Carried.
- 2. Jorge Azcarate, Civil #061895 – Ms. Bowen moved to grant registration upon payment of all applicable fees. Ms. Lyndes seconded. After discussion, Motion Carried.

C. Applicants for Examination

- 1. David Woytek, Electrical Engineer-In-Training #061758 – Ms. Bowen moved to allow the applicant to sit for the P.E. exam. Ms. Garcia seconded. After discussion, Motion Carried.

2. Andrew Towne, Architect-In-Training #060428 – Ms. Garcia moved to table this item until the February 27, 2007 Board meeting so applicant can provide a written explanation of answering yes to question number 6 on the application for examination. Mr. Pearson seconded. After discussion, Motion Failed.

Mr. Starling moved to allow the applicant to sit for the A.I.T. exam. Ms. Bowen seconded. Motion Carried.

7. Review, Consideration & Possible Vote on the following:

EVALUATION COMMITTEE AND STAFF RECOMMENDATIONS AND POSSIBLE GRANTING OF REGISTRATION OR CERTIFICATION (LIST AVAILABLE AT BOARD OFFICE)

1. Granting of professional or in-training registration.
2. Approval to sit for the professional or in-training examination.

Mr. Lane moved to accept the committee and staff recommendations listed in items 7.1 and 7.2. Mr. Starling seconded. Motion carried.

8. Review, Consideration & Possible Vote on the following:

FIRM REGISTRATION – CLARIFICATION OF A.R.S. § 32-141 AND A.R.S. § 32-145

The Board discussed whether applying for or submitting a Request For Proposals (RFP) or a Request For Qualifications (RFQ) requires a firm to be registered. Although the wording of the statute states “offering services” or “wishing to offer services,” The Board’s position on this issue is that when a firm is offered a contract, the registrants and the firm must be currently registered in order to commence performance of the contract. Mr. Pearson did not agree with the Board’s position.

9. Review, Consideration & Possible Vote on the following:

CERTIFIED REMEDIATION SPECIALISTS – REVIEW OF PROGRAM

The Board has nine registered and one pending application for certified remediation specialist. Some time ago, an Arizona Department of Environmental Quality (ADEQ) program required certified remediation specialists to perform certain tasks, however the program now uses ADEQ staff to review the program. The Board asked the legislature to drop this certification discipline in the Board Sunset Review, which was denied. The Board is considering initiating legislative action next year to drop this program.

The Board directed staff to send a letter to the applicant about contacting ADEQ regarding Continued, or future use of certified remediation specialists, and to find out if the applicant wishes to continue with the registration process, which the Board will allow him to do if he so chooses.

10. DIRECTOR'S REPORT

Rule Package Status Report:

R4-30-101. Design team. The Notice Final Rulemaking is scheduled for the GRRC hearing on March 6, 2007.

R4-30-304. Electronic sealing. The Notice Final Rulemaking is scheduled for the GRRC hearing on March 6, 2007.

IBM/GITA Phase 2 Database Conversion Project (Common Business Licensing System): IBM has temporarily stopped the project because of some misunderstandings about the extent of the program. GITA is reviewing their issues and trying to get the program back on track.

Meth Lab Program:

The Board received information on meth arrests from several law enforcement sources and the DEA hazardous material removal contractor. That information added 150 possible sites to our list, bringing the Board's site total to 296 sites. Staff have investigated about one-third of the new DEA sites. Many are not eligible for the Board's program.

2008-2009 Budget:

Legislative budget hearings have commenced. The Board requested two additional staff for the home inspector program and two additional staff for the drug lab program. The Board received the JLBC and OSPB recommendations last week, with each only recommending two additional staff for the home inspector program. A request for a public hearing has been initiated in order for the Board to provide further justification for the two additional staff for the drug lab program.

11. BOARD CHAIR'S REPORT – None.

12. FUTURE BOARD MEETINGS – Tuesday, February 27, 2007

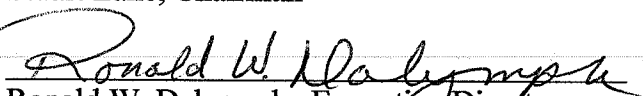
13. FUTURE AGENDA ITEMS

- NCEES Structural Engineering Task Force Meeting, December 2006

14. ADJOURNMENT – Ms. Lyndes moved to adjourn. The meeting adjourned at 11:35 a.m.

ARIZONA STATE BOARD OF TECHNICAL REGISTRATION


Stuart Lane, Chairman


Ronald W. Dalrymple, Executive Director